According to the Office, positional isomers are not deemed patentably distinct absent evidence of superior results on unexpected properties. Applicant respectfully traverses this rejection.

The '350 patent describes compounds for the inhibition of the formation of advanced glycation endproducts (AGEs). In contrast, the present invention claims compounds that break the AGEs. Breaking or cleaving AGEs removes already formed AGEs. Using specific ELISA techniques and other *in vitro* assays for screening, the compounds were found to be surprisingly effective in breaking AGEs. See pages 18-20 of the specification. Most of these compounds show a concentration - dependent release of BSA from the preformed AGE-BSA collagen complex, with 5-ASA, LR-23 and LR-102 showing the highest breaking activities. See Table 2, page 19. It was not expected - and it was only discovered as a result of these experiments - that these compounds have two effects -- inhibition and breaking. The data underlying this application are surprising in that one of ordinary skill in the art would not expect a compound that has inhibitory activity would also have breaking activity.

Judicially Created Doctrine of Obvious-Type Double Patenting Rejection

Claims 1-12 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-2, 4-5, 7-8, 10-11, 13-14 and 18-22 of the '350 patent The Office argues that the methods of use with specific compounds embraced in the instant claims are also claimed in the '350 patent. Applicant respectfully submits that the claims of the present invention are not obvious in view of the '350 patent.

It is important to note that AGE inhibition and AGE breaking are two related, but separate activities which could be the basis of independent medical intervention. For example, it is possible to treat a young diabetic patient with a certain formulation of an LR compound to reduce chronic AGE formation during the future course of his disease. On the other hand, an older diabetic patient with existing blood vessel or nerve damage could be given a different dosage of LR compound in order to "break" AGE build-up and reduce the risk of acute illness. The claims as presently drafted are not taught by the '350 patent. Thus, the claims are patentably distinct because the '350 patent

claims a method of AGE inhibition but does not teach any method of breaking AGEs or cross-linked proteins.

Provisional Nonstatutory Double Patenting Rejection

Claims 1-12 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-5 of co-pending application Serial No. 09/800,976. The Office argues that the claims of the current application and those of the co-pending application are not patentably distinct from each other. Specifically, the methods of use of the instant compounds are also embraced in the claims of the co-pending application. No terminal disclaimer is being filed at this time. Because the Office has made this a provisional rejection only, Applicant acknowledges the possibility of filing a terminal disclaimer to any conflicting claims which may issue should it become necessary.

However, Applicant respectfully submits that the instant claims are patentably distinct from those of the co-pending application. As mentioned above, the present claims are directed to compounds breaking existing AGEs. The claims of co-pending application Serial No. 09/800,976 are directed to the inhibition or prevention of formation of AGEs.

CONCLUSION

In view of the above remarks, it is submitted that the claims are in condition for allowance. The Examiner is invited to telephone the undersigned to expedite allowance of this application.

RESPECTFULLY SUBMITTED,					
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